



Transport Workers' Union of Australia Queensland Branch – application for authorisation A91331

**Interim authorisation decision
12 September 2012**

Decision

The Australian Competition and Consumer Commission (the ACCC) has decided to grant conditional interim authorisation in respect of the application for authorisation lodged by the Transport Workers' Union Queensland Branch (TWU Qld Branch) on 22 August 2012. Interim authorisation will enable the TWU Qld Branch to commence negotiations with Hanson Construction Materials Pty Ltd (Hanson).

Interim authorisation is granted to commence negotiations with Hanson on the condition that no contract, arrangement or understanding will be entered into by the TWU Qld Branch and/or the bargaining group members before the ACCC makes a final determination in this matter. Interim authorisation commences immediately and will remain in place until the date the ACCC's final determination comes into effect or interim authorisation is revoked.

The application for authorisation

The TWU Qld Branch is seeking authorisation to engage in collective bargaining arrangements for current and future owner-drivers contracted to Hanson (a concrete business) in Queensland for a five year period. All owner-drivers contracted to or who will be contracted to Hanson in Queensland are eligible to join the bargaining group (not just TWU members). The TWU proposes that negotiations cover:

- cartage rates (including the labour component)
- a mechanism for those rates to increase from year to year
- penalties for cartage outside standard hours
- increased rates for specialist loads
- return on investment (profit)
- demurrage rates and
- equipment, including painting and badging of prime movers.

The authorisation process

Authorisation provides protection from legal action for certain conduct that may otherwise breach the competition provisions of the *Competition and Consumer Act 2010* (the Act) and the *Queensland Competition Code* (the Code).

Broadly, the ACCC may grant authorisation if it is satisfied that the benefit to the public from the conduct outweighs the public detriment. The ACCC conducts a public consultation process to assist it to determine whether a proposed arrangement results in a net public benefit.

Interim authorisation

Section 91 of the Act and the Code allow the ACCC to grant interim authorisation without making a decision on the merits of the application.

The TWU requested interim authorisation as a 2003 Agreement for some owner-drivers that provide concrete cartage driving services to Hanson in Queensland has expired and they would like to commence the collective negotiation of terms for a new Agreement.

Consultation

The ACCC undertook interested party consultation in its consideration of the request for interim authorisation. The ACCC did not receive any substantive submissions, however Hanson has expressed concerns regarding the validity of the application. The ACCC has confirmed with Hanson that the application was validly lodged. Further information regarding the application is available on the ACCC's public register at www.accc.gov.au/AuthorisationsRegister

Reasons for decision

For the reasons set out below, the ACCC grants conditional authorisation:

- The TWU has submitted that it is seeking interim authorisation to commence the negotiation process, and that no contract, arrangement or understanding will be entered into before the ACCC makes a final determination in this matter
- It is unlikely that negotiations commenced under the period of interim authorisation will result in permanent changes to the relevant markets should final authorisation not be granted
- Interim authorisation does not compel any parties to participate in the collective negotiations and
- The TWU Qld Branch has not sought authorisation to enable collective boycotts.

Reconsideration of decision

The ACCC may review its decision on interim authorisation at any time. The ACCC's decision in relation to interim authorisation should not be taken to be indicative of whether or not final authorisation will be granted.